

## STATEMENT OF CONSIDERATIONS

Class Waiver of the Government's United States and Foreign Patent Rights in Subject Inventions Made in the Performance of Cooperative Research and Development Agreement No. 01082 (CRADA) Entered Into Between Sandia Corporation and SEMATECH, Inc., W(C) 93-004

SEMATECH, Inc. (SEMATECH) is a Corporation of the state of Delaware having a principal office in Austin, Texas.

SEMATECH is a consortium of firms (member companies) in the United States semiconductor industry. SEMATECH is funded, in part, by the Department of Defense under the Semiconductor Cooperative Research Program established pursuant to Public Law 100-180, Sections 271-276, for the purpose of encouraging the semiconductor industry in the United States to conduct research on advanced semiconductor manufacturing techniques and develop techniques to use manufacturing expertise for the manufacture of a variety of semiconductor products.

The Department of Energy (DOE) has previously granted a Class Waiver of Government rights to inventions made in the performance of CRADAs entered into by Sandia Corporation pursuant to its Management and Operating Contract (DE-AC04-DP00789) with the DOE (Class Waiver No. W(C) 90-015).

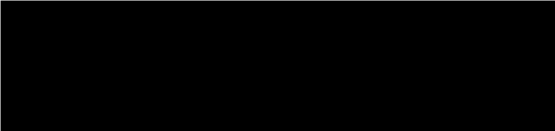
The purpose of this waiver is to provide for amending the considerations of the previous Waiver (W(C) 90-015) to bring the conditions of the waiver rights into consistency with the spirit and scope of the SEMATECH enabling legislation (P.L. 100-180) applicable to Subject Inventions under the subject CRADA No. 01082 between Sandia Corporation and SEMATECH.

Therefore, the waiver of the Government's rights in Subject Inventions arising under the subject CRADA in the first case to Sandia and in the second case to SEMATECH is subject to the Government's retention of a nonexclusive, nontransferable, irrevocable, paid-up license to practice the invention or have the invention practiced throughout the world by or on behalf of the Government, provided, that the Government license shall not be deemed to include commercial rights to the Government or the right of the Government to transfer rights for commercial use. Rights necessary to engage in a governmental function as authorized by law or to carry out a governmental responsibility as authorized by law shall not be deemed commercial rights. Activities that are primarily in pursuit of such a governmental function or responsibility shall not be deemed commercial use.

The Government's march-in rights and requirements for utilization reports set-out in Waiver Number W(C) 90-015 should be waived as being inconsistent with the spirit and scope of the SEMATECH enabling legislation (P.L. 100-180) to the extent it is necessary to comply with the provisions of the subject CRADA.

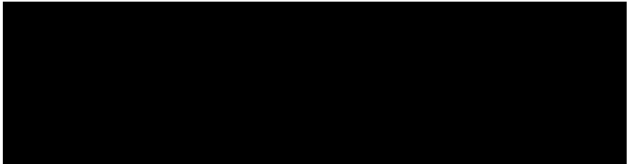
Based on the forgoing Statement of Considerations it is determined that the interest of the United States and the general public will best be served by waiver of the United States and Foreign Rights as set forth herein and therefore, the waiver is granted. This waiver shall not affect any waiver previously granted nor shall it be applicable to any CRADA participant other than SEMATECH, Inc.

CONCURRENCE:

  
Everet H. Beckner  
Acting Assistant Secretary  
for Defense Programs

DATE:


4/5/93

  
Roger Lewis  
Office of Technology  
Utilization

DATE:

4/5/93

APPROVAL:

  
Richard E. Constant  
Assistant General Counsel  
for Intellectual Property

DATE:

4/5/93